



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

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Docket No. X309330

EARL ALEXANDER PICKETT & EMILY ELIZABETH PICKETT
Appellants.

v.

BOARD OF ASSESSORS OF THE
TOWN OF MARBLEHEAD
Appellee.

DECISION WITH FINDINGS

The assessors' Motion to Dismiss ("Motion") is allowed and the appeal is dismissed for lack of jurisdiction. On the basis of the documents submitted in support of the Motion and the arguments advanced at the April 26, 2021 hearing of the Motion, the Board finds and rules as follows.

This appeal concerns the fiscal year 2020 ("fiscal year at issue") assessment of real estate tax in the amount of \$19,666.19 on property located at 47 Gingerbread Hill ("subject property"). Evidence submitted by the assessors shows that the tax bill for the fiscal year at issue exceeded \$5,000 and that the appellants failed to timely pay the second and third quarter installments of the real estate tax bill for the fiscal year at issue. The appellant acknowledged the late payment. The assessors also presented sufficient evidence to establish that the appellant failed to make payments sufficient to satisfy the three-year average provision under G.L. c. 59, §§ 64 and 65.

The Board has no jurisdiction over an appeal when: (1) the tax due for the fiscal year exceeds \$5,000; (2) interest is incurred on the tax bill; and (3) the three-year average provision under G.L. c. 59, §§ 64 and 65 is not met. See, e.g. ***Massachusetts Inst. of Tech. v. Assessors of Cambridge***, 422 Mass. 447, 451-52 (1996); ***Columbia Pontiac Co. v. Assessors of Boston***, 395 Mass. 1010, 1011 (1985) (ruling that payment of the full amount of the tax due without incurring interest charges is a condition precedent to the Board's jurisdiction over an abatement appeal).

Where, as here, the three-year average provision is not available and the tax bill for the full fiscal year exceeds \$5,000, the appellants must timely pay the tax due for each installment of the real estate tax bill without incurring interest for the Board to have jurisdiction over their appeal. In the present appeal, the tax on the subject property

exceeds \$5,000 and interest was incurred due to the late payment of the second and third quarter bill.

The Board has only that jurisdiction conferred on it by statute. ***Stilson v. Assessors of Gloucester***, 385 Mass. 724, 732 (1982). Adherence to the statutory prerequisites is essential to “prosecution of appeal from refusals to abate taxes.” ***New Bedford Gas & Edison Light Co. v. Assessors of Dartmouth***, 368 Mass. 745, 747 (1975); ***Old Colony R.R. Co. v. Assessors of Quincy***, 305 Mass. 509, 511-12 (1940).

Accordingly, the Motion is allowed and the appeal is dismissed for lack of jurisdiction.

APPELLATE TAX BOARD

/s/ Thomas W. Hammond, Jr. Chairman

/s/ Patricia M. Good Commissioner

/s/ Steven G. Elliott Commissioner

/s/ Patricia Ann Metzger Commissioner

/s/ Mark J. DeFrancisco Commissioner

Attest: /s/ William J. Doherty
Clerk of the Board

Property Address: 47 Gingerbread Hill

Date: April 29, 2021

NOTICE: Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. An appeal under the Informal Procedure is limited by G.L. c. 58A, § 7A to questions of law raised by the pleadings or by a statement of agreed facts. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.